

County Counsel
Marshall Rudolph

Assistants
Mark Magit
Stacey Simon

OFFICE OF THE
COUNTY COUNSEL

Mono County
South County Offices
P.O. BOX 2415
MAMMOTH LAKES, CALIFORNIA 93546

Telephone
760-924-1700
Facsimile
760-924-1701

Assistant
Michelle Robinson

Submitted by email to:
GWElev-Support@water.ca.gov

To Whom It May Concern:

Mono County appreciates the opportunity to comment on the Draft Groundwater Elevation Monitoring Program Procedures for Monitoring Entity Reporting, and Guidelines and offers the following comments and suggestions.

1. *Mono County supports the use of production wells to provide groundwater elevation data.*

As a county with ten Bulletin 118 basins but relatively little groundwater extraction or development, many of the basins within Mono County are without a single monitoring well. In some basins, production wells present the sole opportunity for groundwater elevation monitoring. Therefore, the ability to utilize production wells to monitor groundwater within Mono County, as authorized by the draft guidelines, will greatly enhance the amount of groundwater data obtained regarding groundwater elevations and seasonal and long-term groundwater trends in Mono County.

2. *Mono County does not support – and believes the statute does not authorize – DWR to assume monitoring functions in the event of data gaps within a basin or subbasin for which a local entity serves as the Monitoring Entity.*

Water Code Section 10933 provides that if there is not interest by a local entity in performing the groundwater monitoring function (following the failure of any entity to volunteer pursuant to section 10928), then DWR will evaluate whether sufficient wells and information exist to demonstrate seasonal and long-term trends in groundwater elevations within the basin(s) or subbasin(s). Section 10933(e) then provides that if such information does not exist, DWR shall perform the monitoring function. Under the statute, if DWR is required to perform the monitoring function, then the county and any of the entities eligible to serve as Monitoring Entities under section 10927 lose eligibility for water grants or loans awarded or administered by the State. Thus, the statute clearly envisions that if no Monitoring Entity has stepped forward, and if sufficient data does not otherwise exist, then DWR may perform the monitoring function. If this occurs, then the county and other eligible entities lose eligibility for certain state funds.

In contrast, the draft guidelines appear to provide for DWR to perform the monitoring function upon the existence of a "data gap" within a basin or subbasin -- even where there is an identified Monitoring Entity for that basin or subbasin. This is inconsistent with the language of the statute which, as described above, authorizes DWR to perform the monitoring function only in the absence of both a monitoring entity *and* sufficient information to demonstrate seasonal and long-term groundwater trends. The draft guidelines state that "[a] data gap . . . is essentially an area that lacks the density of monitoring wells that would allow seasonal and long-term trends in groundwater levels to be determined for the basin or subbasin or a portion thereof." They go on to state that "If no local entity is able and/or willing to fill a data gap, the department may be required to perform groundwater monitoring functions. If DWR performs this monitoring, local agencies and the county that have the authority under Section 10927 to monitor the area of the data gap would be potentially ineligible for a water grant or loan awarded or administered by the state."

Besides being in conflict with the statute, which authorizes DWR to assume the monitoring function only in the absence of an identified Monitoring Entity and where there is insufficient data, this language is problematic because it creates a disincentive for eligible entities to serve as Monitoring Entities -- even in areas where data gaps do not exist. Specifically, according to the draft guidelines, if a local entity does volunteer to monitor groundwater elevations within a basin or subbasin but, due to lack of infrastructure, jurisdiction, or for some other reason, a data gap exists, then DWR may perform the monitoring function and local entities may lose eligibility for State funds. However, if implemented as drafted, then local entities (including those serving as Monitoring Entities in portions of the basin or subbasin where no data gap exists) will have little incentive to continue performing the monitoring function, as they will already have lost eligibility for State funds.

This is not what the statute authorizes and is counterproductive to the goals of CASGEM.

- 3. *If, notwithstanding the foregoing, the final guidelines provide for the loss of eligibility for state water grants and loans where a mere data gap exists, then Mono County urges DWR to incorporate a clause into the final guidelines whereby a monitoring plan with identified data gaps is accepted as adequate where justification for that data gap exists.***

The draft guidelines already state that "the Monitoring Entity or Entities with the authority to monitor the area of the data gap should provide detailed information regarding the nature of and reason for the data gap so that DWR may include such information in the prioritization of groundwater basins and subbasins as appropriate." Presumably, the prioritization is relevant to DWR's determination of which basins or subbasins it will monitor.

If a local Monitoring Entity faces the potential of losing funding opportunities based on a data gap caused by factors outside of its control (such as a lack of wells or jurisdiction over overlying lands), then it (and other eligible entities) should not lose eligibility for state water grants and loans. Such would be unfair and create a disincentive for local entities to serve as monitoring entities, as described above. The County therefore suggests the following language (in bold) to avoid such severe and counterproductive results.

The draft states "data gaps may exist for a variety of reasons including a lack of suitable monitoring wells, lack of groundwater use, access issues, and jurisdictional issues, among others." **No monitoring plan shall be considered inadequate, nor should any entity become ineligible for State water grants or loans, for the reason of data gaps that exist for reasons outside of the Monitoring Entity's control."**

4. A procedure for "un-volunteering" as a monitoring entity should be provided in the guidelines.

Many local entities will be volunteering to serve as Monitoring Entities without full knowledge of what will be required of them when actual monitoring and reporting is required to commence. For example, there are no specifics in the draft guidelines regarding the number, location, or type of wells which will be accepted within a monitoring plan for any particular region (and the guidelines are only in draft form). Many of those details will only be known when final guidelines are issued and a monitoring plan is approved. It can therefore be anticipated that some local entities may seek to "un-volunteer" as Monitoring Entities once they become informed of the true responsibilities which that position entails.

In addition, if the final guidelines provide for the assumption of monitoring functions by DWR within basins or subbasins for which a local entity has volunteered to perform the monitoring function (with the resultant loss of eligibility of funds) but for which a "data gap" exists, as discussed in comment 2 of this letter, then local Monitoring Entities will lose much of the incentive they might have had to monitor the remaining basins or subbasins, or parts thereof, within their jurisdiction (i.e., maintenance of eligibility for state water grants and loans) and will likely seek to un-volunteer for the entire region. An explanation of how entities that have volunteered to perform the monitoring function may un-volunteer should be provided.

Thank you for taking the time to read and consider Mono County's comments on the draft CASGEM guidelines. If you have any questions, please contact Tony Dublino at 760-932-5435 (tdublino@mono.ca.gov) or me at 760-924-1704 (ssimon@mono.ca.gov).

Sincerely,


Stacey Simon